containing an offer of a new tenancy as from July 1, 1971 at an increased rent. The appellant who continued to pay the rent agreed to pay the increased rent from December 1974. The rent receipt was then issued in his name. In January 1975 the respondent served on the appellant a notice to quit addressed to the appellant determining the tenancy on February 28, 197. The learned District Judge found that the appellant by paying rent to the respondent after the expiration of the first notice to quit had accepted the offer of a new tenancy and he accordingly gave judgment for the respondent. The appellant's appeal to the High Court was dismissed and he appealed to the Court of Appeal. It was argued that the respondent could not create a new tenancy with the appellant as the original tenancy of Madam Tang was still subsisting and had not been effectively determined by the notice to quit.

Held: (1) the appellant in continuing to pay the rent to the respondent after the death of Madam Tang and to receive the rents from the subtenants could only lawfully do so as agent for the Chief Justice in whom the estate of the deceased was vested by operation of law. A notice to quit served on the agent is a notice to the principal;

(2) the learned District Judge was correct on the facts in finding that the appellant was the respondent's tenant when he paid rent to the respondent after the expiration of the first notice to quit.

Cases referred to:-

(1) *Harrowby* v. *Snelson* [1951] 1 All E.R. 140.

(2) *Egerton* v. *Butter* [1951] T.L.R. 58.

COURT OF APPEAL.

Tan Bar Tien for the appellant.

S. Vellupillai for respondent.

Wee Chong Jin C.J. (delivering the judgment of the Court): The respondent, Tang Kong Low, instituted proceedings in the District Court against the appellant, Lai Seng Fook, for possession of premises known as No. 29 Race Course Lane, arrears of rent and mesne profits. The premises were not subject to the Control of Rent Act and the only issue was whether the appellant was the respondent's tenant.

The facts as found by the District Judge were these. The respondent let the premises in 1954 to one Madam Tang Siew who did not personally occupy the premises but sublet the whole of it to several sub-tenants. Madam Tang Siew died in 1967 to 1968. One or two years before her death the appellant, her son-in-law, paid the rent on her behalf. Thereafter, the appellant continued to pay the rent to the respondent and to receive the rents from the sub-tenants. He requested the respondent to issue the rent receipt in his name but was told by the respondent that until he obtained letters of administration to the deceased's estate the rent receipts would continue to be made out in the name of the deceased. In May 1971 the respondent, with knowledge that Madam Tang Siew had died, through his solicitors served a notice to quit addressed "To Madam Tang Siew..." on the appellant determining the tenancy on June 30, 1971. Accompanying the notice to quit was a letter also addressed to Madam Tang Siew containing an offer of a new tenancy as from 1st July 1971 at an increased rent. Thereafter the appellant continued to pay rent to the respondent. In November 1974 the appellant agreed to pay an increased rent from December 1974 and in December 1974 he paid the respondent the agreed December rent and the rent receipt was issued in the appellant's name. In January 1975 the respondent served on the appellant a notice to quit addressed to the appellant determining the tenancy on February 28, 1975.

On these facts the District Judge found that the appellant by paying rent to the respondent after the expiration of the first notice to quit had accepted the offer of a new tenancy and accordingly gave judgment for the respondent. The appellant appealed unsuccessfully to the High Court.

It is submitted on his behalf that the respondent could not create a new tenancy with the appellant as the original tenancy of Madam Tan Siew was still subsisting and had not been effectively determined by the first notice to quit. It is submitted that the notice to quit should have been served on the Chief Justice in whom the interest of the deceased Madam Tang Siew was vested from her death until a grant of administration. We do not accept this submission. In our opinion, on the facts as found by the District Judge the appellant in continuing to pay the rent to the respondent after the death of Madam Tang Siew and to receive the rents from the sub-tenants could only lawfully do so as agent for the Chief Justice in whom the estate of the deceased was vested by operation of law. A notice to quit served on the agent is a notice to the principal (see *Harrowby* v. *Snelson*[1] and *Egerton* v. *Rutter*).[2] In our judgment the District Judge was correct on the facts of the present case to find that the appellant was the respondent's tenant when he paid rent to the respondent after the expiration of the first notice to quit.

The appeal is dismissed with costs.

Appeal dismissed.

Solicitors: *Boey, Ng & Wan; Donaldson & Burkinshaw.*

PUBLIC PROSECUTOR v. VISUVANATHAN

[O.Cr.J. (Choor Singh & Rajah JJ.) February 16, 1977]

[Singapore — Criminal Case No. 31 of 1976]

Penal Code, ss. 299 and 300 — Murder — Clause (c) of s. 300 — "Intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death" — Meaning of.

The accused was charged with having murdered one Madikum Puspanathan on January 23, 1976 at 7 p.m. The accused had earlier that day been drinking liquor with the deceased and some others in a bar at the junction of Jalan Besar and Upper Weld Road, Singapore. The accused became aggressive, pulled the deceased by the hand and challenged the deceased to a fight. They were separated. Soon after, the accused again seized the deceased's hand and pulled him out on to the road and there started a fight with the deceased in the course of which the accused pulled out a concealed knife, stabbed the deceased in the chest and ran away. The deceased collapsed on the road and died in a pool of blood.

At the autopsy, the pathologist found a fatal gaping stab wound below the left clavicle which was 8 cm. deep and had cut through the 3rd and 4th ribs, penetrated the left lung and produced a 2 cm. cut at the anterior surface of the heart. The cause of death was certified as "stab wound into the heart."

At the trial of the accused, the prosecution relied on clause (c) of section 300 of the Penal Code and contended that as the accused's act of stabbing was done with the intention of causing bodily injury and the bodily injury intended

to be inflicted was sufficient in the ordinary course of nature to cause death, he was guilty of murder. Counsel for the defence submitted that there was no evidence that the accused inflicted the fatal wound with the intention of causing such injury as would in the ordinary course of nature cause death. Counsel cited *Mohamed Yasin* v. *Public Prosecutor*,[1] and relied on the passage in Lord Diplock's judgment, at page 157 which reads "the prosecution must also prove that the accused intended, by doing it, to cause some bodily injury to the victim of a kind which is sufficient in the ordinary course of nature to cause death." The trial judges in rejecting this submission and convicting the accused,

Held: (1) there is a clear distinction between the intention to cause the bodily injury found to be present and the intention to cause "some bodily injury of a kind which is sufficient in the ordinary course of nature to cause death." The prosecution do not have to prove the latter intention;

(2) for the application of clause (c) of section 300 of the Penal Code, all that the prosecution need prove is —

1. that the accused did an act which caused the death of the deceased;
2. that the said act was done with the intention of causing bodily injury;
3. that the injury caused — (a) was intended and was not accidental or otherwise unintentional; and (b) was sufficient in the ordinary course of nature to cause death;

(3) the *dictum* of Lord Diplock relied upon by counsel for the defence was factually appropriate in *Mohamed Yasin's* case but it is not of universal application. When considered in isolation it gives a different meaning to the third limb of section 300 but it is clear from a reading of the whole judgment in *Mohamed Yasin's* case that the Privy Council has not differed from the views of the Supreme Court of India in *Virsa Singh's*[2] case, where the correct legal position as regards the third limb of section 300 of the Penal Code has been set out.

[**Editorial Note:** This case is reported on a point of law which is being raised again and again in murder cases. It is based on the *dictum* of Lord Diplock in *Mohamed Yasin's* case. The learned judges have dealt with it very fully in the following report. The appeal by the respondent to the Court of Criminal Appeal (Criminal Appeal No. 22 of 1976, Wee Chong Jin C.J., Chua & Kulasekaram JJ.) was dismissed on January 16, 1978.]

Cases referred to:-

(1) *Mohamed Yasin* v. *Public Prosecutor* [1976] 1 M.L.J. 156.

(2) *Virsa Singh* v. *State of Punjab* A.I.R. 1958 S.C. 465.

(3) *Rajwant Singh* v. *State of Kerala* A.I.R. 1966 S.C. 1874.

(4) *Mimi Wong & Anor.* v. *Public Prosecutor* [1972] 2 M.L.J. 75.

CRIMINAL CASE.

Sant Singh (Deputy Public Prosecutor) for the Public Prosecutor.

A.B. Netto for the accused.

Choor Singh and **Rajah JJ.:** ....

The next submission of counsel for the defence was that there was no evidence that the accused inflicted the fatal wound with the intention of causing such injury as would in the ordinary course of nature cause death. To appreciate this submission it is necessary to look at the definition of murder as laid down in the Penal Code. The relevant sections are sections 299 and 300: —

"299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

300. Except in the cases hereinafter excepted culpable homicide is murder:—

(a) if the act by which the death is caused is done with the intention of causing death; or

(b) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or

(c) if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

(d) if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death, or such injury as aforesaid."

The submission of counsel for the defence was based on clause (c) of section 300 and this is also the clause on which the prosecution relied to bring home the charge of murder.

The defence submission was quite obviously based on the recent judgment of the Privy Council in *Mohamed Yasin* v. *The Public Prosecutor*.[1] In that case Lord Diplock in delivering the judgment of the Privy Council, said at page 157: —

"Not only must the act of the accused which caused the death be voluntary in this sense (knew what he was doing, meant to do it; it was not accidental or unintentional); the prosecution must also prove that the accused intended, by doing it, to cause some bodily injury to the victim of a kind which is sufficient in the ordinary course of nature to cause death. ..."

This interpretation of clause (c) of section 300 appears to be different from that of the Supreme Court of India. See *Virsa Singh* v. *State of Punjab*[2] and *Rajwant Singh* v. *State of Kerala*.[3]

It seems to us that if there is an intention "to cause some bodily injury to the victim of a kind which is sufficient in the ordinary course of nature to cause death", then the intention is to kill and in that event clause (c) would be unnecessary because the act would fall under clause (a) of section 300, namely —

"(a) if the act by which death is caused is done with the intention of causing death."

In our opinion clauses (a) and (c) of section 300 are meant to cover different acts i.e. acts done with different intentions. The cases show that clause (c) is meant to apply in circumstances where the assailant had no intention of causing death but has nevertheless intentionally (and not accidentally) inflicted a bodily injury sufficient in the ordinary course of nature to cause death. Under clause (c) once the intention to cause the bodily injury actually found to be present is proved, the rest of the enquiry ceases to be subjective and becomes purely objective and the only question is whether, as a matter of purely objective inference, the injury is sufficient in the ordinary course of nature to cause death. It is irrelevant and totally unnecessary to enquire what kind of injury the accused intended to inflict. The crucial question always is, was the injury found to be present intended or accidental. As was observed by Bose J. in *Virsa Singh's* case, *supra*, at page 476 —

"It does not matter that there was no intention ... to cause injury of a kind that is sufficient to cause death in the ordinary course of nature."

And at page 478 —

"... the question, so far as the intention is concerned, is not whether he intended ... to inflict an injury of a particular degree of seriousness, but whether he intended to inflict the injury in question."

The matter is clarified further by Hidayatullah J. in *Rajwant Singh's* case, *supra,* at page 1878 —

"If the injury the offender intends causing and does cause is sufficient to cause death in the ordinary course of nature, the offence is murder whether the offender intended causing death or not and whether the offender had a subjective knowledge of the consequences or not...."

In *Mimi Wong & Anor.* v. *The Public Prosecutor,*(4) the Court of Criminal Appeal of Singapore held that a person cannot be found guilty of murder by the application of the third limb of section 300 unless it is proved that the fatal injury found to be present was the injury intended to be inflicted. Delivering the judgment of the court, Chief Justice Wee Chong Jin said, at page 78 —

"We are in full agreement with the Supreme Court of India in *Virsa Singh* v. *State of Punjab* where the correct legal position as regards the third limb of section 300 of the Indian Penal Code (which is in identical terms with our section 300) has been set out in the judgment of Bose J."

In our opinion there is a clear distinction between the intention to cause the bodily injury found to be present and the intention to cause "some bodily injury of a kind which is sufficient in the ordinary course of nature to cause death". The prosecution do not have to prove the latter intention.

In our judgment for the application of clause (c) of section 300 of the Penal Code, all that the prosecution need prove is —

1. that the accused did an act which caused the death of the deceased;
2. that the said act was done with the intention of causing bodily injury;
3. that the injury caused —
   (a) was intended and was not accidental or otherwise unintentional; and
   (b) was sufficient in the ordinary course of nature to cause death.

There is no other requirement. In our opinion the submission of counsel for the defence based on Lord Diplock's dictum that "the prosecution must also prove that the accused intended to cause some bodily injury to the victim of a kind which is sufficient in the ordinary course of nature to cause death" was untenable because such a requirement would make clause (c) otiose in view of the provisions of clause (a).

The language used by Lord Diplock in the passage already cited from his judgment is perhaps unfortunate as it has given rise to submissions by counsel in recent cases that the intention that clause (c) requires must be related, not only to the bodily injury inflicted, but also to the clause, "and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death". We do not think that that was what Lord Diplock meant. Lord Diplock's speech must be read in full. Clearly, it has to be shown that the accused intended to cause bodily injury — that is subjective, but we do not think that Lord Diplock meant that the second limb of clause (c), the sufficiency to cause death, was also subjective. This is clear from other parts of his judgment. At page 158, Lord Diplock states: —

"To establish that an offence had been committed under section 300(c) or under section 299, it would not have been necessary for the trial judges in the instant case to enter an inquiry whether the appellant intended to cause the precise injuries which in fact resulted or had sufficient knowledge of anatomy to know that the internal injury which might result from his act would take the form of fracture of the ribs, followed by cardiac arrest. As was said by the Supreme Court of India when dealing with the identical provisions of the Indian Penal Code in *Virsa Singh* v. *State of Punjab,* at page 467:—

'that is not the kind of enquiry. It is broad based and simple and based on commonsense.'

It was however essential for the prosecution to prove, at very least, that the appellant did intend by sitting on the victim's chest to inflict upon her some internal, as distinct from mere superficial, injuries or temporary pain...."

The dictum of Lord Diplock relied upon by counsel for the defence was factually appropriate in *Mohamed Yasin's* case but it is not, in our opinion, of universal application. When considered in isolation it gives a different meaning to the third limb of section 300 but it is clear from a reading of the whole judgment in *Mohamed Yasin's* case that the Privy Council has not differed from the views of the Supreme Court of India in *Virsa Singh's* case.

In this case we had no doubt at all that the act of the accused in stabbing the deceased in the chest was an act which fell squarely within the provisions of clause (c) of section 300 of the Penal Code. The fatal injury was an intended injury and was not caused accidentally or otherwise unintentionally. It was also sufficient in the ordinary course of nature to cause death.

Even if the law is that for the application of clause (c) of section 300 of the Penal Code, the prosecution must prove that the accused intended to cause some bodily injury to the victim of a kind which is sufficient in the ordinary course of nature to cause death, there was sufficient evidence in this case to warrant that inference. Having regard to the weapon used, the force used in stabbing the deceased, and the fact that the deceased was stabbed in a very vulnerable part of his body, we had no doubt at all that the accused had such an intention. The accused had used a kitchen knife used for cutting vegetables and inflicted a fatal gaping stab wound below the left clavicle. He had used so much force that the wound was 8 cm. deep and the blade of the knife had cut through the third and fourth ribs and left parasternal edge, had penetrated the left lung near the anterior margin of the left upper lobe and then produced a 2 cm. cut at the anterior surface of the heart (right ventricle below pulmonary valve). The accused's evidence was that he was swinging the knife wildly from side to side in order to defend himself. Dr. Seah who performed the autopsy on the deceased stated that the direction of the wound was downwards and inwards to the central portion of the chest and that the blow with the knife must have been a violent one to produce such a stab wound. He expressed the opinion that the deceased must have died within ten minutes. The medical evidence left us in no doubt at all that the accused, when he stabbed the deceased with the kitchen knife, intended to cause some bodily injury to the victim of a kind which is sufficient in the ordinary course of nature to cause death.

Accused convicted.

Solicitors: *Netto, Low & Pang.*